

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

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|----------------------------------|---|-----------------|
| STELLA LEWIS, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | 2:07-CV-510-TFM |
| |) | |
| MICHAEL J. ASTRUE, |) | |
| COMMISSIONER OF SOCIAL SECURITY, |) | |
| |) | |
| Defendant. |) | |

ORDER

This case is now before the Court on the Plaintiff's *Petition for Attorney Fees* pursuant to the Equal Access to Justice Act (Doc. #21, filed April 28, 2008). Judgment in this case was entered in favor of plaintiff upon remand pursuant to sentence four of 42 U.S.C. § 405(g) (Doc. #20, entered February 14, 2008). *Defendant's Response to Plaintiff's Application*. . . , (Doc. #23, filed May 6, 2008), agrees to the amount of fees requested for Attorneys Ludlum and Bohr, but objects to Plaintiff's instruction the fees be issued directly to counsel. *See Reeves v. Astrue*, ___ F.3d ___, 2008 WL 1930587, at *5 (11th Cir. May 5, 2008) ("The EAJA means what it says, attorney's fees are awarded to the prevailing party, not to the prevailing party's attorney.") Defendant does, however, agree the fees due Attorney Ludlum may be issued directly to her pursuant to the valid assignment of fees executed by Plaintiff, and attached to her *Petition*. (Doc. #21, Attachment 1). Defendant cautions the assignment will not prevent the United States Department of Treasury from

applying the EAJA payment to offset any debt owed by Plaintiff in accordance with 31 C.F.R. § 285.5(e)(6)(ii). Defendant has also agreed to compensate Plaintiff for the initial filing fee of \$350.00 from the Judgment Fund administered by the United States Treasury.

Upon review, the Court determines that the Plaintiff's application for an award of attorney fees and costs under EAJA is timely filed, that Plaintiff has met the requisite prevailing party status entitling her to an award of fees, and that the terms of the award agreed upon by the parties are reasonable. The Court further finds that the Defendant has correctly cited the EAJA text and circuit precedent which limits fee payments to the "prevailing party."

Accordingly, it is the ORDER, JUDGMENT, and DECREE of this Court that the plaintiff's application for an award of fees and expenses under the Equal Access to Act to Justice Act is GRANTED in the total amount of \$ \$4115.80, allocated as follows:

- 1) \$ **708.46** to Attorney Georgia Ludlum (EAJA fee for 4.20 hours of attorney time); and
- 2) \$ **3,407.34** to Plaintiff Stella Lewis (EAJA fees for 20.20 hours of attorney time).

In addition, Plaintiff is awarded \$ **350.00** from the Judgment Fund administered by the United States Treasury as reimbursement for filing fee expenses.

Done this 7th day of May, 2008.

/s/ Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE